



United States
Department of
Agriculture

Food Safety
and Inspection
Service

Office
of Field
Operations

Raleigh District Office
6020 Six Forks Office
Raleigh, NC 27609

EMAIL / COURIER

January 27, 2014

(b) (6)

Est. # 01809A--M
Catelli Brothers, Inc.
776 Broad Street.
Shrewsbury, NJ 07702

NOTICE OF SUSPENSION REVISED

Dear **(b) (6)**

This is the revised Notice of Suspension that incorporates additional information as basis for the suspension as noted in the previous letter you were given on January 24, 2014. This letter confirms the verbal notification you were given on January 24, 2014 by the Food Safety and Inspection Service (FSIS) of the suspension of the assignment of inspectors for slaughter operations at Catelli Brothers, Inc., Est. 01809A--M, herein after referred to as "your establishment". This action was initiated, in accordance with Title 9 of the Code of Federal Regulations (CFR), part 500.3 (b), after FSIS determined that your establishment failed to handle animals humanely.

Background/Authority

The Federal Meat Inspection Act (FMIA) (21 U.S.C 603 et seq.) provides that for the purpose of preventing the inhumane slaughtering of livestock, the Secretary shall cause to be made, by inspectors appointed for that purpose, an examination and inspection of the method by which cattle,

sheep, swine, goats, horses, mules, or other equines are slaughtered and handled in connection with slaughter in the slaughtering establishments inspected under this Act. The Secretary may refuse to provide inspection to a new slaughtering establishment or may cause inspection to be temporarily suspended at a slaughtering establishment if the Secretary finds that any cattle, sheep, swine, goats, horses, mules, or other equines have been slaughtered or handled in connection with slaughter at such establishment by any method not in accordance with sections 1901 to 1906 of Title 7 until the establishment furnishes assurance satisfactory to the Secretary that all slaughtering and handling in connection with slaughter of livestock shall be in accordance with such a method.

The Humane Methods of Slaughter Act of 1978 (7 U.S.C 1901 et seq.) provides that Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods.

Findings/Basis for Suspension

On January 23, 2014, FSIS initiated an investigation into allegations of inhumane slaughter and handling of cattle, covertly captured on video, recorded at Establishment M1809A, Catelli Brothers Inc., in Shrewsbury, NJ, from September 10, 2013 to October 31, 2013. FSIS personnel have identified the facility and the holding pens on the video as your facility, Establishment 1809A.

FSIS received five video files on January 24, 2014, containing edited scenes; one file labeled Ex. A Conventional Slaughter; three files labeled Ex. B - Kosher Slaughter Catelli; and one file labeled Ex. C - Inhumane Handling Catelli

On Friday, January 24, 2014, FSIS Office of Field Operations personnel, experts in humane handling and slaughter regulations, thoroughly evaluated video's Exhibit A and Exhibit C. Two specific scenes were determined to be egregious inhumane handling and slaughter of cattle at your facility.

In video Exhibit A, Scene #20 dated September 24, 2013; Time Mark 14:05 – 16:18, the video recorded a bovine, hoisted from the left hind leg, at the bleed rail location in the establishment. The cow is profusely bleeding from a wound on its left lateral neck. At time mark 14:25, the animal blinks in response to a finger tapping around the eye, the left ear is erect, and the neck is mildly extended. At time mark 14:34, the footage captures breathing motion of the left flank. The bovine continues to blink and extend its head at 14:38. A plant employee applies a hand-held captive bolt gun to the poll of the animal, and the gun does not fire. A second attempt is made at 14:45, and the cow flails its head and body at this event. At 14:49, lateral flank breathing can be visualized. At time mark 15:30, the animal is blinking, extending its head and has an erect left ear. A stun from the hand-held captive bolt is applied at time mark 16:05, and following this stun, at 16:14 there is no blinking reflex and the head and left ear are flaccid.

This event is noncompliant with 9CFR 313.15(a)(3): *Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.* This event is also considered an egregious noncompliance, in which your establishment allowed the animal to regain consciousness after stunning, while it was cut and bleeding on the bleed rail.

In video Exhibit C, Scene #1 dated October 11, 2013; Time Mark 0:0 – 0:6, the video recorded a conscious animal that had not been stunned at the front of the restraint rail. At time mark 0:4 an establishment employee can be observed hitting the animal in the face with the flat side of a rattle paddle.

This event is noncompliant with 9 CFR 313.2(b): *Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited.*

In video Exhibit C, Scene # 5 dated October 17, 2013; Time Mark 01:31 – 01:50, the video recorded an establishment employee and a truck driver unloading an animal from a trailer. At time mark 1:35 the comment can be heard to see if we can drag him out; the animal is recumbent. At time mark 1:39 the comment can be heard “he’s really lazy, he hurt his leg”. At time mark 1:47 through 1:50 a chain can be visualized around the animal’s neck and it is dragged down the ramp still lying on its side.

In video Exhibit C, Scene #7 dated October 17, 2013; Time Mark 02:47 – 03:55, the video recorded establishment employees handling a calf unloading from a trailer. At time mark 02:49, the calf is non-ambulatory, and the employee pulls both ears upwards so the head rises twice. The calf does not stand. At time mark 03:02, the employee is folding the calf’s head to its left shoulder and at 03:04 the calf rolls over downward, and lands on the floor of the holding pen. At 03:11, the employee rolls the calf again, depicted by the calf’s forelegs crossing the bottom of the screen, and a view of the brisket region during the roll over.

In video Exhibit C, Scene #10 dated October 17, 2013; Time Mark 04:38 – 04:57, the video recorded an animal on the floor in an upright position; an establishment employee is standing behind the animal. At time mark 4:43 the employee can be seen wrapping the animal’s tail around his hand and wrist in an effort to get the animal to stand. At time mark 4:53 the employee is observed to be lifting the back end of the animal off the ground by its tail. Time mark 4:57, the animal is seen standing and is ambulatory.

These events are noncompliant with following: 9 CFR 313.2(d)(2): *The dragging of disabled animals and other animals unable to move, while conscious, is prohibited.* and 9 CFR 313.2 (d)(3): *Disabled animals and other animals unable to move may be moved, while conscious, on equipment suitable for such purposes; e.g., stone boats.*

These events is also in violation of the Humane Methods of Livestock Slaughter Act, 7 USC 1901, which states, *"The Congress finds that the use of humane methods in the slaughter of livestock prevents needless suffering; results in safer and better working conditions for persons engaged in the slaughtering industry; brings about improvement of products and economies in slaughtering operations; and produces other*

benefits for producers, processors, and consumers which tend to expedite an orderly flow of livestock and livestock products in interstate and foreign commerce. It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods," and 7 USC 1902, which states, "No method of slaughtering or handling in connection with slaughtering shall be deemed to comply with the public policy of the United States unless it is humane."

Because all animals received at this facility for slaughter are intended for human food consumption, in accordance with the Humane Methods of Slaughtering Act (HMSA), they must be slaughtered and handled in a humane manner while received and held at your facility.

The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides The Federal Meat Inspection Act 21 U.S.C. Section 603(b) provides legal authority to suspend operations at any establishment where cattle have not been handled in a humane manner as described in 7 U.S.C. 1901 where it states *"It is therefore declared to be the policy of the United States that the slaughtering of livestock and the handling of livestock in connection with slaughter shall be carried out only by humane methods."* In accordance with Title 9 CFR 500.3(b), the suspension of inspection at an establishment without prior notification for inhumane handling practices is warranted, as specified in Title 9 CFR 313 and under authority of 21 U.S.C. 621.

Your establishment failed to implement effective humane handling methods resulting in noncompliant and / or egregious inhumane handling occurring at your establishment in violation of the following regulations:

- Title 9 CFR 313.2(b): *Electric prods, canvas slappers, or other implements employed to drive animals shall be used as little as possible in order to minimize excitement and injury. Any use of such implements which, in the opinion of the inspector, is excessive, is prohibited.*
- Title 9 CFR 313.2(d)(2): *The dragging of disabled animals and other animals unable to move, while conscious, is prohibited. Stunned animals, may, however, be dragged.*
- Title 9 CFR 313.2 (d)(3): *Disabled animals and other animals unable to move may be moved, while conscious, on equipment suitable for such purposes; e.g., stone boats.*
- Title 9 CFR 313.15(a)(3): *Immediately after the stunning blow is delivered the animals shall be in a state of complete unconsciousness and remain in this condition throughout shackling, sticking and bleeding.*

It has been noted that your establishment does have a comprehensive or “robust” systematic approach to its humane handling program as referenced in Directive, 6900.2 Rev. 2 but because of the egregious nature of the noncompliance described herein it appears evident that your program was not consistently applied; the assignment of inspectors for slaughter operations at your establishment is being suspended. The suspension action will remain in effect until such time as you provide the FSIS Raleigh District Office with adequate written assurances including corrective actions and further planned preventive measures to assure that livestock at your establishment are slaughtered humanely. In order to resume inspected operations, you must submit corrective actions to my attention at the Raleigh District Office. These corrective actions should include at a minimum the following:

1. Identify the assessment process used to determine the nature and cause of the noncompliance.
2. Identify what the assessment revealed as the likely cause of the system failure.
3. Describe the specific actions that will be taken to eliminate the cause of the failures.
4. Describe future monitoring activities you will use to ensure that changes are implemented and are effective.

You are reminded that, as an operator of a federally inspected plant, you are expected to comply with FSIS regulations and to take appropriate corrective actions to prevent inhumane handling of livestock at your establishment. Please be advised that further regulatory enforcement actions may be taken against your establishment based on further evidence or your failure to respond adequately to these issues. Please also be advised that you have the right to appeal this matter.

In accordance with 9 CFR 500.5 (a) (5), you may appeal this action by contacting the:

Executive Associate for Regulatory Operations
USDA/FSIS/OFO
Room 3157, South Agriculture Building
1400 Independence Ave., SW
Washington, DC 20250-3700
Telephone: 202-720-3697
Facsimile: 202-690-3287

In addition you may also request a hearing regarding this determination pursuant to FSIS’ Rules of Practice (9 CFR 500.). The rules of Practice were published in the Federal Register, Vol. 64, No. 228, on November 29, 1999. As specified in Section 500.5(d), should you request a hearing,

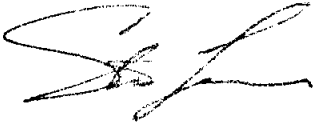
FSIS will file a complaint that will include a request for an expedited hearing. If you wish to request a hearing regarding this determination, you should contact:

Director

FSIS/OIEA/ELD
Enforcement and Litigation Division
USDA, FSIS, OIEA (Office of Investigation, Enforcement & Audit)
Stop Code 3753, PP3, Cubicle 8-210C
1400 Independence Avenue, SW
Washington, D.C. 20250
Telephone: 202-418-8872
Facsimile: 202-245-5097

It is our hope that this matter can be resolved quickly. If you have any questions, please call this office at 1-800-662-7608. We urge your cooperation and voluntary compliance.

Sincerely,



Steven Lalicker
District Manager
Raleigh, NC

SL (b) (7)(C)

cc:

M. Ramzan, DDM, RDO, OFO (via email)

T. Bryant, DDM, RDO, OFO (via email)

(b) (7)(C) [REDACTED] OFO (via email)

(b) (7)(C) [REDACTED] OFO (via email)

(b) (7)(C) [REDACTED] Est. 01809A--M (via email)

(b) (7)(C) [REDACTED] Circuit 8012 (via email)

R. Jones, Deputy Assistant Administrator, OFO (via email)

D. Engeljohn, Assistant Administrator, OFO (via email)

W. Smith, Assistant Administrator, OIEA (via email)

J. Borda, Regional Director, CID/OIEA (via email)

(b) (7)(C) [REDACTED] OFO (via email)

Quarterly Enforcement Report (via email)

District Office Establishment File (Est. # 01809A--M)